# NEW YORK CITY.

Important Proceedings in the Law Courts.

THE GREAT ERIE RAILROAD WAR

A Terrible Conflict Raging All Around.

Hostile Judges Joining in the Melee.

The United States Courts Invaded.

The Whiskey Ring Indictments and the Alleged Naturalization Frauds.

THE ERIE RAILROAD WAR.

UNITED STATES DISTRICT COURT.

The Brie War Carried into the United States Courts—Jay Gould Appointed Receiver of he Company by Order of a United States Judgo-His Security Fixed at \$1,000,000.

Before Judge Blatchford. owing is the substance of a bill of complaint filed on Monday evening in the Clerk's office of the United States District Court, and on which ined order was issued by Judge Blatchford.

Henry B. Whelpley, a citizen of the State of New ersey, having resolved to carry the Erie war into the d States Court, has filed a bill of complaint in he United States District Court setting out with a stty full history of the formation of the company. ock, the passage on the 19th of February last by the Directors of the following resolution: ved, That under the provisions of the stabute ng the loan of money for such purpose the m as may be necessary, and to issue therefor such ity as is provided for in such case by the laws State; that the President and Secretary be orised under the seal of the company to execute edful and proper agreements and undertakings authorised under the seal of the company to execute all needful and proper agreements and undertakings for such purposes;" that under this law convertible bonds to a large amount were issued at various times, realizing over \$8,000,000, for which stock to the extent of 200,000 shares has been issued, fienry H. Smith being one of those to whom such stock was issued, from whom the plaintiff purchased 1,000 shares, paying for them bona fide, and baving no reason to believe that the stock was not part of the regular Frie stock; that allegations have since been made that the stock is not genuine stock, and on this ground application has been made to the Board of Brokers to strike the stock from the list, by which the market value of the stock would be wholly destroyed; that there are many others in the same position with the plaintiff; that he has no power of deciding the question, but if the stock be spurious he is entitled to a return of his money; that his stock is now unsalable at its real value; that various suits have been brought and are now pending with regard to the management of the adhirs of the company, and to this stock, as he believes, in the interest of they should be against the validity of the stock he would have no remedy other than by the stock, and if they should adjudge it fliegal to compet the Eric Railway to give back its bonds, or if that is beyond its power to repay him his money; that meanwhile an injunction be placed on the company preventing them from parting with their property so as to leave him remediless, and that a receiver be appointed and the company directed to transfer enough property to him to meet the claim of the plaintiff and others similarly situated.

This bill is sworn to on the 23d day of November. Mr. Fullerton admits service of the bill and of notice of motion, and waives further notice for any injunction has the company and waives further notice for any injunc-

deficients daily entered hereon by William Fulerton, their solicitor, and upon the waiter by him daily filed of service of motion of motion for the injunction and hereon sites ordered, and on motion of the injunction and hereon sites ordered, and on motion of C. A. Seward, solicitor for plaintiff, it is ordered that Jay thould, the present treasurer of the defendants, be said he hereby is appointed receiver of the defendants to the extent prayed for in the fifth paragraph of the prayer of said bill on his liling in the office of the derivative and the court of the left of the court of the plaintiff and the other headers of stock named in said bill, and to abide the event of this suit.

And it is further ordered that a preliminary injunction issue out of and under the sea of this court to the tenor, purport and effect prayed for in the fourth paragraph of the prayer of said bill.

THE SURETIES TO THE SOND.

THE SURETIES TO THE SOND.

The following named surethes executed the bond, havin "been approved therefor by Judge Blatchford"— trugh Smith.

# SU-TREME COURT-CHAMBERS

The Brie War St." Waging-The Conflict of Jurisdiction-Judge Satherland's Orders Stayed by Judge Barn and Judge Satherland Takes Measures to Roder Judge Bar-aard. Before Judge Sutherland.

Before Judge Satherland.

McIntosh vs. The Brie Rullway Company, A Crust
Betmont and Others.—August Belmont et al. ve.
The Brie Railway Company, Jay Gould, James
Fish, Jr., Frederick A. Lane and Others.—Monday afternoon Judge Sutherland, after argument of several hours' duration, vacated the order made by Judge Barnard enjoining the commencement or ution of any suits against the Eric Railway Company, appointing Jay Gould receiver of the

Company, appointing Jay Gould receiver of the funds of the company and authorizing Gould to buy pu 200,000 shares of Erie stock at any price below or not exceeding par.

At nine o'clock Monday night, after about six hours' argument, Judge Sutherland also appointed Henry E. Davies receiver of all the property of the Erie Railway Company, directing him to give security in \$1,000,000 and to deposit the funds as fast as they accumulate to \$550,001 in one of the trust funds. Subsequently Judge Barnard granted a stay of proceedings on the orders of Judge Sutherland for twenty days.

Yesterday morning, on application of August

twenty days.
Yesterday morning, on application of August Belmont's counsel, Judge Sutherland granted an order requiring the defendants to show cause this morning at ten colock why Judge Harnard's stay of proceedings should not be vacated.

The Gould-Flek-Lane Clique Desires to Be Presecuted "to the Bitter End" by August Belmont-A Million Doltars Dumnges Sued for by the Company in Consequence of the

thigations of Last Spring.

The following suit was instituted yesterday and the complaint served upon the defendants:

The E-ie Railway Company vs. Angust Betwort, Ernet B. Lucke, Richard Scholl, Baniel Brew and Frank Work.—The plaintiff complains and alloges:

Frank Work.—The plaintiff complains and alleges:—That the plaintiff is a corporation, created under the laws of the State of New York, and having for its principal object the construction and maintenance of a railway in the States of New York, New Jersey and Fenneylyands.

Second.—That the plaintiffs capital is divided into several hundred thousand shares of stock, of the par value of \$100 such.

Third.—That the defendants, Eichard Schell, Dantet Drew and Frank Work, are stock speculators, who have for many years been in the habit of buying and seiling railway shares on speculation, and have in particular speculated largely in Eric Railway shares

have in particular speculated largely in Eric Rallway snares.

Fourth,—That in the months of February and March, 1868, the defendants Scholl and Work, in combination with other persons, entered into an immense speculative operation in Eric Rallway sharos, in which they invested severa millions of dollars, mostly borrowed money; that the defendant brew was engaged in a speculative operation in the same stock in an opposite direction, and that the course of the stock market was such as to make it newtrable, in the absence of any interference by the courts, that the said Schell and Work and their associates would lose a very

large amount of money by their said speculation and that said Drew would gain largely by his.

Fitth—That thereupon the defendants, Scholl and Work (the latter being at the time a director of the Eric Railway Company) commenced a series of actions and judicial proceedings against the said Drew and the Eric Railway Company and its directors, some of them in the names of said Schell and Work as plaintiffs, and others in the names of the People of this State, and others in the names of private individuals in league with said Schell and Work; but all the said actions and proceedings were entirely under

ings. In consideration of the payment to them of a large sum of money.

Eightn—That in June, 1868, the affairs of this plaintiff were managed by an executive committee of five, consisting of the said Eldridge, the said Drew, Henry Thompson, Jay Gould and J. C. B. Davis; and that the said Eldridge, Drew and Thompson, for certain corrupt considerations, entirely apart from any interest of this plaintiff, agreed to pay and did pay to said Schell, out of the funds of this plaintiff, the sum of \$429,250 in settlement of the said proceedings (of which said Work received \$150,000), and also agreed to and did buy from friends of said Schell, for account of this plaintiff, \$6,000,000 of its own stock, and paid for the same out of the funds of this plaintiff about \$1,000,000 more than the same was actually worth or could then have been purchased for in the market.

tually worth or could then have been purchased for in the market.

Null-—That in October and November, 1868, the defendants, Schell, Drew and Work, entered into another speculation in Eric Railway shares, in which they became involved in heavy losses, from which they could escape only by again obtaining the interference of the courts, and, encouraged by the comparative success of the said Schell and Work in their former litigation, they induced the defendants, August Belmont and Ernest B. Lucke, to commence an action against this plaintiff and its directors, in which they obtained an injunction, and moved for the appointment of a receiver, the said Schell, Drew and Work furnishing the information and managing the suit, free of expense, to the nominal plaintiffs on record.

the suit, free of expense, to the nominal plaintiffs on record.

Tenth—That the object of the defendants Schell, Drew and Work in carrying on the said suit, is not the promotion in good faith of the interests of this plaintiff or of its stockholders, but only to secure a profit for themselves by affecting the price of stocks, and by eventually settling the suit for money to be gaid by this plaintiff; and they, or some of them, have already offered to agents of this plaintiff to withdraw said suit if this plaintiff would pay them a large sum of money.

Eleventh—That in the former litigation judicial decisions were made to the prejudice of this plaintiff, which purported to be made upon argument and to be valid and binding judgments, but which were in fact made by collision between agents of this plaintiff and agents of the said Schell and Work, in pursuance of the compromise hereinbefore mentioned; and that this plaintiff af apprehends that similar arrangements may be made or attempted in the litigation now pending.

Twelfth—That all the said proceedings have been greatly injurious to this plaintiff, depreciating its credit, compelling it to pay much higher raves of interest than it would otherwise have to pay, causing

compromising the action brought by them against this plaintiff.

Second—That all the defendants be restrained by injunction from entering into any bargain or negotiation with any officer, agent or servant of this plaintiff for the purpose of effecting any compromise or settlement of the said action, or of any proceeding therein, and from receiving or offering to receive any money, reward or valuable consideration of any kind whatever for abandoning or discontinuing the said action or any proceeding therein.

Third—That the defendants, Belmont and Lucke, be required to carry on the said action in good faith for the interest of the stockholders of the Erie Railway Company, and without submitting the same in whole or in part to the direction or control of persons who are not openly joined as parties plaintiff.

Fourth—That the defendants pay to the plaintiff \$1,000,000 damages.

Fourth—That the defendants pay to the plaint \$1,000,000 damages. FIELD & SHEARMAN, Plaintin's Attorneys.

FIELD & SHEARMAN, Planting Anomaly, City and County of New York:—Jay Gould being sworn, says that he is the president of the Eric Railway Company; that the foregoing complaint is true of his own knowledge except as to those matter which are therein stated to be upon information and belief, and that as to those matters he believes it to be true.

JAY GOULD. PAY GOULD.

OTH November 24, 1888, before me—MORTIMER

Notary Public, New York.

Gould-Lane Interest-How and by Whom the Old Erie War was Compromised-Discontinuance-Nice Expose of Jobbery The following complaint was also served yester

day:—

The Eric Railway Company et. Richard Schell, Daniel Drew and Frank Work.—The Eric Railway Company, plaintiff, complains and alleges—
First—That at various times during the months of February and March. 1868, actions and other proceedings in equity were commenced in this court by the defendants, Frank Work and Richard Schell, and by the people of the State of New York, and by other persons, against the Eric Railway Company and its directors, and against the defendant, Daniel Drew, who was then treasurer of the Eric Railway Company.

by the people of the State of New York, and by other persons, against the Eric Railway Company and its directors, and against the defendant, Daniel Drew, who was then treasurer of the Eric Railway Company.

Second—That in such actions and proceedings it was alleged by the plaintiffs therein that the defendant, Drew, in combination with other persons then controlling the affairs of the said company, had caused certificates of stock in the said company, had caused certificates of stock in the said company to be issued largely in excess of the amount authorized by linw and for fraudulent purposes, and it was prayed of the court that all such issues of stock in light be restrained for the future, and that the stock so issued in the past might be redired and cancelled.

Third—That the action brought as aforesaid by the people of the State of New York, as well as all the other actions and proceedings aforesaid, was brought at the instigation and under the control of the defendants. Richard Schell and Frank Work, that arret the Said action and proceedings had been carried on for some time the said Schell and Work, on one 'side, and the defendant Drew and to singly other directors of the Eric Railway Company to negotiate a compromise and to effect a discontinuance of all the proceedings.

Fourth—That & compromise was accordingly arranged between the celendants, Schell and Work, on one 'side, and the defendant Drew and to singly arranged between the defendant, brew John T. Ridridge, title president of and company, and Henry Thompson, then a director of said company, on the other side, by which it was agraed that the then last named persons should procure room the said schell and Work should procure a dacontinuance of all the actions and proceedings hereholefore mentioned.

Fight—That the motions which led to the said company, the sum of \$4.20, 250, to be paid to said Schell, how the bedrein and the said company and the said flowing the said Eidridge was to secure immunity to himself in effecting and procure of pay to th

Life Railway Company and all subs connected therewith.

(20), no.

Annexed thereto is the following approval:

Approved.

JOHN S. ELDHIDGE, President.

Eight.—That shortly after the payment of this money the actions and proceedings aforesaid were discontinued.

Night.—That the defendant, Frank Work, in accordance with an arrangement previously made between him and said Schell, in connectration of the use of said Work's position, for the purpose of defrauding the plainthir and of preventing the payment of the same.

Teath—That by a further agreement between the defendants and said kidridge and Thompson it was arranged that this plaintif about to make

signed their offices as directors, and James H. Hanker and John Steward, the persons designated in that behalf by the Vanderbilt interest, were elected in their stead; and at the same meeting, in pursuance of the preconcerted plan between said Eldridge and said Drew, Mr. Drew made a written communication, previously prepared, dated July 10, 1868, in which Mr. Drew offered to pay to the company in cash the sum of \$545,000, less the interest coming to him up to the time of settlement, on his loan to the company of \$3,000,000, and released the company from the repayment of said loan if the company would release him the \$4,000 shares of common stock and the proceeds thereof, and also release him from all chaims and causes or actions, and said proposition was accepted by the Board, and the President and Treasurer were at the same meeting directed to carry it out.

sideration for the money paid as aforesaid, but the same was obtained from its funds by the fraudulent practices of the defendants for their own purposes and without conferring any benefit on this plaintiff. Wherefore the plaintiff demands judgment against the defendants for the said sum of \$429,250, with in-terest from july 2, 1868.

FIELD & SHEARMAN, Plaintin's Attorneys FIELD & SHEARMAN, PRIMER'S AND COLD AND COULD BY New YORK.—Jay Gould, being sworn, says that he is President of the Eric Railway Company; that the foregoing compaint is tree of his own knowledge, except as to the matters therein stated upon information and belief, and as to those matters he believes it to be true. JAY GOULD. Sworn, November 24, 1888, before me—MORYMORE SMITH, Notary Public, New York.

### THE SITUATION AT THE ERIE RAILROAD OFFICE.

bars the entry to the offices a clerk was stationed, who gave very curt answers to inquiries. He refused to inform several gentlemen who called yesterday morning why the office was closed, and seemed nervously anxious that no intimation of the condition of affairs inside should reach the public through him. Similar inquiries at the transfer office in Pine street, which was open for the transaction of business as usual, developed nothing new. A gentleman called on the transfer clerk and stated that it was rumored on the street that the company had skedaddled to Jersey or Canada, but the rumor was discredited by the clerk.

#### THE ALLEGED REVENUE FRAUDS.

UNITED STATES CIRCUIT COURT-CRIMINAL BRANCH. The Fullerton Indictment-A Day Fixed for

Before Judges Nelson and Blatchford. Mr. Porter, addressing the Court, said:—May it clease the Court, I have an application to make in the case of Mr. Fullerton, who is under indictment and who gave bail yesterday. I have had no opportunity to read the indictment nor to confer with Mr. O'Conor, with whom I am associated in the case. The indictment is one, as I understand, that contains a large number of counts, and it is one which we desire to examine. The case comes upon us when we are overwhelmed with other engagements that we will have to bring to a close and get rid of, and which engages all our time and in which we are mutually associated, that is, Mr. O'Conor, Mr. Fullerton and myself. I would desire, if it could be done, that the case be allowed to stand over to a day convenient to Mr. O'Conor, and I would suggest it be allowed to stand over till Thursday next, the 3d proximo, for the purpose of examining the indictment and pleading to it.

Mr. Courtney, Inited Sustes District Autornoy, said he had no objection. Bail had been given in the ordinary way, and there is no pressure about.

The day named was then tixed for pleading to the indictment.

Card from Mr. Fullerton. section with the charges contained in the indict-United States District Court. At this stage of the proceedings involved in the case, when only ex parte

The parties implicated in what are known as the whiskey frauds, under the leadership of S. G. Courtney, the United States District Attorney, have succeeded, after an enfort of over two weeks' duration, in procuring an indictment against me for an alleged conspiracy to defraud a revenue officer. I do not know upon what evidence this has been obtained, but I do know that, whatever it is, it is wholly false, I trust my friends will be patient, as I am. In the end I shall show to the satisfaction of every right minded man that I have betther said nor done anything which should in the slightest degree impair that coafidence in me or lessen that measure of respect which it has heretofore been my good fortune to enjoy. This body of men who have Instigated this proceeding have done so in self-defence. I am employed by the President of the United States, and am acting under his authority in exposing the monstrous trands which have been committed on the revenue of the country. The only hope of escape of the parties involved is to Crush me. This they have attempted by a vite conspiracy. The truth will prevail in the end, however, despite all efforts to prevent it, and the public will see who is worthy of condemnation. William Fulleron, it Pine street.

# THE ALLEGED NATURALIZATION FRAUDS.

UNITED STATES CIRCUIT COURT-CRIMINAL BRANCH. Application for Postponement.

The United States vs. Benjamin B. Rosenberg. — Mr. Stoughton applied to the Court for postponement of the argument till to-morrow, stating that one of the counsel for the defence had been prepar-ing very elaborate papers and affidavits in the case senberg, which would have an important bearing on the motion to quash the indictment and which would govern all the other cases; that coun-

ing on the motion to quash the indictment and which would govern all the other cases; that counsel had been laboring under a misapprehension as to the time to which the last postponement had been made, and hence the papers were not ready now, but would be in the course of a few hours.

Air. Fierrepont opposed the application for postponement, stating that he had postponed thit to-morrow the settlement of the order in the Ericase in order that he might attend to the argument in the Rosenborg case to-day, for which he had been retained on the part of the government.

Mr. Henry K. Davies (also employed for, the government) opposed the application for postponement on the same grounds.

District Attorney Courtney stated that he had given due notice to Mr. Stoughton that the argument would proceed to-day.

Mr. Stoughton admitted all that, but stated that he had not deemed it part of his duty, or that it had not occurred to nim, to notify the other counsel.

Judge Neison suggested to Mr. Stoughton whather the argument could not proceed to-day and let the papers be presented when they were ready.

Mr. Stoughton asked the Court to walk this the other counsel should be after counsel should be sent for.

Counsel for Rosenberg having come into court, stated the circumstance's which led to he are being prepared to proceed with the argument to ay. He had not been notified, as he expected he should be, of the intention of the government to go on with the case to-day. All he now maked was that the argument should proceed to-indicate he should be, of the intention of the government to go on with the case to-day. All he now maked was that the argument should proceed to-indicate he should be, of the intention of the government to go on with the case to-day. All he now maked was that the argument should proceed to-indicate the should be, of the intention of the government to go on with the argument to-day.

Counsel said he had not his brief with him.

Judge Neison asked why, if counsel has been ready on two previous occasions, he

Mr. Stoughton proceeded with the arrament on the motion to quasi the indictment against researchers.

The motion, he said, was to quasi the indictment, which had been founded on the thirteenth section of the act of March 3, 1813.

Judge Nelson asked counsel which of the Indictments against Rosenberg (there were rour of them) he was referring to.

Mr. Stoughton seemed to think that it made no difference, but finally selected one. He went on to say that the indictment was one of a very large number founded under the act of 1813, which was entitled "An act for the regulation of seamen on poace the public and private vessels of the United

statute? A certified copy of the record purporting to naturalize a person was not all that the Collector of Customs should look at or that the commander of a public vessel should look at. He should examine sufficiently to be satisfied that the person presenting it was an actually naturalized cluzan. The President might prescribe other regulations. The object was to guard against the employment of aliens on board of public or private vessels of the United States. There was provision upon provision, guard upon guard to interpose against this denounced act, the employment of aliens on board upon guard to interpose against this denounced act, the employment of aliens on board American vessels. What was the meaning of the word "cridence," used in the thirteenth section, as distinguished from the word "certificate?" The Collector was authorized to hear evidence as to the alienship or non-alienship of the party. The only acts denounced as offences in the body of the act of Congress were efforts to procure employment by aliens by means of false or forged certificates of naturalization, or by means of false evidence tending to establish the facts. He should undertake to demonstrate that if the thirteenth section was to have a broader operation than to punish the acts referred to that operation was not in contemplation of its framers and that the offence to which it was now sought to be applied was not known to its framers and could not have been that been the policy of the government at that time to prevent the employment of allens on board of the public or private vessels of the United States for several reasons; one of which was that it removed the excuse or pretence for the search of American vessels by the armed vessels of other nations. It was equally the policy of the government to encourage the employment of allens on board of the public or private vessels of the United States for several reasons; one of which was that it removed the excuse of or pretence for the search of American vessels by the armed vessels of the purpose of procuring employment on board of American vessels. No statute existing at that time, or since, authorized any other use to be made of the ceruiteate for any legal purpose. That, he submitted, disposed of the whole question. The framers of the statute were not dealing with any other question than the one which he had described. The subject of the employment of seamen was especially within the power of Congress for the purpose of regulating commerce. If any other subject had been in contemplation of Congress why had it not turned its attention to the subject of prohibiting franculent naturalization liseif! In the first pince, Congress probably never supposed such an offence to be possible. In the second place, naturalization was conducted in the State courts, and each state had the means of procuring naturalization. It might, therefore, be fairly assumed that as there was but one purpose for which

state had the means of punishing false personation or other-fraudulent means of procuring naturalization. It might, therefore, be fairly assumed that as there was but one purpose for which Congress authorized certificates of naturalization to be used, so it would punish its abuse in reference to that one purpose and that abuse. If it should turn out, on the trial of the cause, not only that the person forging the certificate did not intend it for the purpose of procuring employment for a person on board an American vessel, but that he had forged it for the purpose of procuring that alien employment as coachman with a gentleman who had a prejudice against all but United Statos citizens, would the prosecution claim that that was an offence punishable under the statuts of 1813. They would hardly go so far as that; and yet there was a parallelism between the cases. It was sought by the prosecution to extend the thirteenth section of the act of 1813 to the protection of a State. It was an effort to seek the assistance of the focaral judicary and of the federal laws to protect the purity of elections in the State of New York, which had made ample provision for its own protection in the statute of May 13, 1865, amended April 25, 1866.

Judge Relson asked Mr. Stoughton to state whether, under section four of the act of 1813 the President has made any regulations on the subject.

Mr. Stoughton replied that he had not examined the matter and was unable to answer the question. He went on to argue that it was a novel idea to apply the statute of 1813, intended for a specific purpose, to cases of a different character arising in 1868, and which are provided for by the State laws. His understanding of the statute of 1813 confined it to cases where persons undertook to misuse certificates of a different character arising in 1868, and which are provided for by the State laws. His understanding of the other conditions persons could not use them. If his friend, Mr. O'Gorman, should self to its friend, Judge Davies, a certificate

certainly not. The crime consisted in attempting to clothe with the privileges of citizenship a person not entitled to them.

Judge Nelson—Bo you understand the act of 1813 to be now practically in operation in the navy?

Mr. Stoughton—I do not understand it to be practically in operation at all.

Judge Nelson—Are officers of the navy subject to the penalties prescribed in the act if they receive aliens on board, without evidence of naturalization?

Mr. Stoughton—It has never happened to me to hear of such a case. When my attention was called to the act I supposed it to be substantially obsolete. Whether it has been changed by regulations or has grown into disuse in consequence of the absurdity of its provisions as applied to commercial operations of to-day he knew not.

Mr. Pierrepont—If your Honors refer to section ten of the stante of 1813 you will see the reason.

Mr. Stoughton—The reason of what?

Mr. Pierrepont—The reason of what?

Mr. Pavies read the tenth section, which provides that the act shall have no operation, which provides that the act shall have no operation, which provides that the act shall have no operation with reference to the employment of scames in regard to the subjects of foreign nations which do not reciprocate the same provision. He added that no nation and done so.

Mr. Stoughton—Then you understand the act to be

Mr. Stoughton-Then you understand the act to be

Mr. Stoughton—Then you understand the act to be substantially obsoicte?

Mr. Davies—No, sir. We understand that those sections power came into active operation by reason of the provisions of the tenth section; but sections we've and intricen have been in operation and have been acted on by every court in the United States since its passage.

Mr. Stoughton—Every court:

Mr. Davies—Tes, sir. Sections twelve and thirteen have always been regarded as in operation, and have been always conformed to until the repeal of the inst clause of Section twelve by the operation of the last clause of Section twelve by the operation of the inst clause of section twelve by the operation of the act of June 23, 1841.

Judge Poison—My inquiry was in reference to the regulations of enlistment.

Mr. Davies—We understand that they were never called into active operation.

Mr. Stoughton—I wish to inquire whether, after the war with Great Britain, the provisions prohibiting the employment of aliens on board of american vessels were operative as the law of the land. That is a very simple question. Will my learned brothers layor me with an auswer?

Mr. Davies—The answer is to call your attention to section ten.

Mr. Stoughton—I thought it would be wise, per-

Mr. Davies—The master is to consider the section ten.

Mr. Stoughton—I thought it would be wise, perhaps, for counsel to hold on to the ambiguity of the tenth section. I feel very much about them as a distinguished lawyer said a ciergyman fett about a sermou which was preached by into on some saying by St. Peul, which had led to some diversity of opinion as to its someony. He told the congrugation that all

regard to the five years' residence; but that did not contemplate the use or the abuse of certificates of naturalization. The indictment, he further argoed, falled to show that the act of naturalization ciothed the person purporting to be flaturalized with the rights of citizenship. It was utterly void. It falled to show the facts required by the act of 1816 to be set out in the judicial record, and would not entitle the person holding it to any rights of citizenship. He argued that there was no averment in the indictment bringing the offence within the purview of the act as to an attempt to procure employment on board American vessels. The truth was that questions were often tried by a mob, and the public officer, getting excited, attempted to try the indictment. The preaant was one of those cases. The indictment had been got up by the mob, and the mob had misapprehended the law. There must be averred in the indictment facts which show the court that a crime has actually been committed. It was not enough to take a section framed with a particular view and seek to apply it to other states of circumstances. There was no State law till 1805-0, as there was no federal law, to authorize the use of certificates of naturalization. By the statute of 1805 it was provided that no person in the State of New York should vote unless he was registered, and one of the proofs entitling him to be registered was the production, if an alien, of a certificate of naturalization. If congress had even attempted to pass a law on that subject, he should like to inquire whether that was within the scope of its nower under the constitution of the United States. But he assumed that the prosecution claimed it to be an offence to forge or misuse a certificate of naturalization for the purpose of registration. Conid Congress interfere to punish an act like that? He had no objection to Congressional legislation; and he nor only had a love but a veneration for federal administration of justice; so that he would not be unwilling to see many su

Court to be told that it had no relation whatever except to seamen? Not only from the structure of the act itself but from the general application of section twelve, and from the sweeping provisions of section thirteen, it was plain that the act was intended to be of universal application. The argument of Mr. Houghton had conceded that if the certificate was a forged certificate relating to a seaman it would be a crime under the statue of 1813; but it was equally true that it must be a crime to forge a certificate for other than a seaman unless the statute were exclusively confined to scamen, and he hoped he had proved that it was not. His learned friend had questioned the power of Congress to hitch on to its statute sively confined to seamen, and he hoped he had proved that it was not. His learned friend had questioned that it was not. His learned friend had questioned the power of Congress to hitch on to its statute of 1813 the New York statutes of 1865 and 1866. He (Mr. Pierrepont) did not claim any such power for Congress. He merely claimed that the act of 1813 was applicable to the case before the Conrt. The question had come up in Pennsylvania, where the Circuit Court gave it very rull and elaborate consideration and had, on a motion to quash the indictment, deliverd an opinion, which counsel proceeded to read. (it decides that the thirteenth section of the act of 1813 is of general application and is not restricted to seamen.) The views of that Court seemed to be in harmony with the facts and with reason. If that decision was correct it would dispose of that view of the subject. The true construction of section thirteen was that the forging or uttering or any certificate or evidence relating to the citizenship mentioned in the act was the crime intended to be prohibited and punished. The words were broad, plain and clear. The act had been relied upon down to the present as protecting the purity of the suffrage. Did the indictment make such charges as brought the case within the statute of 1813? Where a statute makes a thing a crime all that was necessary to do was to aver the commission of acts which the statute denounces as crime. His Honor Judge Neison had decided in the case of Henderson, who had received money from a person who had dealings with the government, that where a statute make a thing a crime the intent was of no consequence. The zame principle had been decided by his Honor in the Kohnstamm case. It was of no consequence whether the person named in the certificate of naturalization was a real or a fectitions person. He would not discuss the New York statutes of 1865 and 1866, The only question was whether, under the United States statute of 1813, a forged and fraudulent certificate of

the certificate or what words it should empley, but simply provided that it should be a crime to issue any false or fraudulent certificate or evisionce of citizenship.

Judge Nelson—Any certificate of citizenship referred to in the act.

Mr. Pierrepont argued that it was not the certificate, but the citizenship, that was referred to in the act.

Judge Nelson took a different view of the meaning of the words, holding that it was the certificate and not the citizenship that was referred to.

Mr. Pierrepont went on to demonstrate his view of the subject. He argued that if the words related not to citizenship, but to the certificate, other portions of the section could not be so construct. If the Court should conclude that the law had no reference except to seamen, then, of course, the indictment would not be valid, for there was no averment that the offence related to seamen. The sole question was whether, under the statute of 1813, the indictment charged a crime which Congress intended to make a crime. If it did, then the indictment was good, and the party must go to his trial. If it did not, then the indictment should be quashed. The question of intent was not a matter that could arise on the motion to quash the indictment. It could only arise on the trial. If the intent of Congress was to prevent the forging or issuing of false certificates of naturalization, and if the indictment charged that offence, then the indictinent was good. The certificate in this case was the one which had been generally issued. It was the one which had been generally issued. It was the one under which the electors for Freeldent and Vice President and under which members of Congress had been elected. It was the usual and regular form. His friend Mr. Houghton had taken the ground that under the act of 1816 a certificate which did not contain the names of the winnesses would be no evidence of citizenship, then the Court would not say that there was no crime charged or committed.

Judge Nelson—The certificates seem to be in conformity wi

seamen and to a great many others besides, it iows, naturally and logically, that the thurteenth uton is not restricted in its operation to seamen. At this point of the argument the court, at minutes before five, adjourned till eleven o'clock

### MISCELLANEOUS LAW REPORTS.

UNITED STATES CIRCUIT COURT-IN ADMIRALTY. Important Decision About the Seizure of Vos

John Whitman vs. Joseph Thompson,-This is brought by Whitman against Thompson for setzing and carrying away by force and arms, in the lowe

special plea setting up that the plaintiff, an inhabithe seizure engaged with his vessel within the waters of the State of New Jersey and within the dredging for clams, contrary to an act of the Legisla-ture of New Jersey, and that the defendant, being Sheriff of the county of Monmouth aforesaid, seized and carried away the vessel in pursuancy of the authority of said act, and immediately gave infor-mation to two Justices of the Peace of the county of Monmouth, before whom such proceedings were had; that the said vessel was condenned and sold by direction of the said instices and according to the

assessed the damages of the plaintin ag \$3,000.

The Court, after reviewing the evidence, states:
It is also urged that inasmech as the jury four that the seizure was made within the waters of Ne Jersey this finding should be regarded sufficient give the justices jurisdiction. We agree this mighave been sufficient if the act of the Legislature of New Jorsey had so provided. But the jurisdiction conferred upon the justices is conduct, in expresers, to seizures which the boundaries of Momouth county, which the jury have negative it for the great and in instructing the jury that the record of the justices was on prima facie evidence of the finding, inasmuch as was conclusive of the fact of the dredging for clan within the waters of New Jersey. We do not deep it material to inquire whether or not this record this collateral suit was conclusive of all the fact theorem contained, except those relating to the quetion of jurisdiction, for the reason that the jurisditional question we have been considering goes to it root of this action and overrides every other quetion involved. Even if the judge erred in the integral of the stance smelling which we do not deep the province of the saction and overrides every other quetion involved. Even if the judge erred in the integral of the saction which we do not adopt the saction and overrides every other quetion involved. Even if the judge erred in the integral of the saction of the saction and overrides every other quetion in the saction and proverides every other quetion in the saction and overrides every other quetion in the saction and overrides every o stance specified, which we do not admit, it could not have altered the result. The absence of jurisliction renders every part of the proceedings before the justices coram non-judicise and void.

Judgment for the plaintiff.

## COURT OF GENERAL SESSIONS. Before Judge Russel.

Soutences-A Dishouest Carman-Burglarice and Larcentes.
At the opening of the court yesterday morning the City Judge proceeded to sentence the prisoners who

were remanded last week.

William Van Waggner, who pleaded guilty to forgery in the fourth degree, was sent to the State Prison for two years.

John Wallace and Michael Connors, who pleaded

guitty to an attempt at grand larceny, were each sent to the State Prison for two years and six months.

sent to the State Prison for two years and six months.

Judgment was suspended in a number of cases where facts were presented to the Court which warranted it in being ienient with the accused parties. Another bated of indictments were presented by the Grand Jury of the Oyer and Terminer, and some of the prisoners arranged pleaded not guilty.

William B. Bowker, who was charged with stealing \$200 worth of ladies' wearing apparel on the 27th of October from Sarah Whitpt, No. 340 West Forty-first street, pleaded guilty to an attempt to grand larceny.

John Stanley and James Tracey made a similar pica, the charge being that on the 14th inst, they stole inhety-two dollars' worth of boots and shoes, the property of Victor Ecullion. No. 735 broadway. These prisoners were each sent to the State Prison for two years and six months.

Michael Feeny picasied guilty to an attempt at grand larceny, the indictment sileging that on the 25th of October he stole \$151 worth of pantaloons and dry goods, the property of Jordan, Houseman & Co. The compisint set forth that the accused was acarman in the employ of this firm, and that while entrusted with a case of goods to take it to the Havanna steamer he conveyed it to a house in Laurens surest, and was detected in the act of removing a portion of the contents. Officer Eustace arrested him on the spot. The Judge said this was an aggravated oase and sentenced him to the State Prison for two years and six months.

John McGinley picaded guilty to an attempt at burgiary in the third degree, the bit of indictment charging that on the night of the 6th inst, the primises of Terhune, Brown & Co. were burglariously entered and \$180 worth of hats stolen. He was sent to the State Prison for two years and six months.

William Myers pleaded guilty to burglary in the third degree, He was sont to the State Prison for two years and six months.

sent to the State Prison for two years and six months.

William Myers pleaded guilty to burglary in the third degree. He was jointly charged with William Clarke, the indictment alleging that on the night of the sth of October they broke into the store of Taylor & Ludlam, 149 Duane street, and stole 3500 worth of beaver cloth. His Honor sale, in pussing sentence, that Myers was a professional burglar, and sent him to the State Prison for four years.

James Donnelly was convicted of petty larceny, he having in connection with others stolen a silver watch and four dollars in money from C.L. Vandivere, a colored waiter, as he was passing through Bleecker street on the 14th of September. He was remanded for sentence.

remanded for senence.

John Moore (colored) pleaded guilty to an attempt at burglary. On the 5th inst, he entered the stable of John Hays and stole a bianket and a set of harness, he was sent to the Pentientiary for two years.

## SIXTH DISTRICT CIVIL COURT.

The Raid on Tenement Houses. Before Judge Thaddens H. Laue. One hundred and twenty cases against owners and issees of tenement houses were up again in this court yesterday. Among the many cases called was that against our well known citizen, John W. har printed form. If the accused issued what purported to be a certificate of naturalization be committed what the statute deciret to be a felony. No other view than that, it seemed to him, could be a sound view of the question. If it was not sound, then the law would be set at maught, and then it could not be true that the law was one of general application.

Mr. Henry E. Davies followed on the same side of the question, at one of the counsel for the government. He referred the courts to the same side of the question, at one of the counsel for the government. He referred the courts to the same side of the puestion, at one of the counsel for the government. He referred the courts to the same side of the puestion, at one of the counsel for the government of the referred the courts to the same side of the referred the courts to the same side of the referred the courts to the same side of the maturalization of allems, and to the recomment of the same subject. By the constitution of the United States the naturalization of silens was rested sacing.